

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

DANIEL L. SHIELDS v. RICKY BELL, WARDEN

Appeal from the Criminal Court for Davidson County
No. 3853 Steve Dozier, Judge

No. M2007-01407-CCA-R3-HC - Filed December 3, 2007

The Petitioner, Daniel L. Shields, appeals from the trial court's summary dismissal of his petition seeking habeas corpus relief. The State has filed a motion requesting that this Court affirm the trial court's dismissal of the petition pursuant to Rule 20, Rules of the Court of Criminal Appeals. The State's motion is granted. The judgment of the trial court is affirmed.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Criminal Court Affirmed
Pursuant to Rule 20, Tenn. Ct. Crim. App. R.

DAVID H. WELLES, J., delivered the opinion of the court, in which ROBERT W. WEDEMEYER and JERRY L. SMITH, JJ., joined.

Daniel L. Shields, Pro Se.

Robert E. Cooper, Jr., Attorney General and Reporter; Jennifer L. Bledsoe, Assistant Attorney General; Victor S. Johnson, III, District Attorney General; and Pamela Anderson, Assistant District Attorney General, for the appellee, State of Tennessee.

MEMORANDUM OPINION

The record on appeal reflects that in 2001, the Petitioner pleaded guilty to and was convicted of rape, a Class B felony. In accordance with his plea agreement, the Petitioner received an agreed-upon ten-year sentence to be served at one hundred percent as a violent offender. In 2007, the Petitioner filed a petition seeking habeas corpus relief, asserting that his sentence was void and illegal. The trial court summarily dismissed the petition, finding that the allegations contained in the petition, even if true and accurate, did not demonstrate that the Petitioner was entitled to habeas corpus relief. It is from the order of dismissal that the Petitioner appeals. The State has filed a motion requesting that this Court affirm the judgment of the trial court pursuant to Rule 20 of the Rules of the Court of Criminal Appeals. We grant the motion filed by the State.

Article 1, section 15 of the Tennessee Constitution guarantees the right to seek habeas corpus relief and Tennessee Code Annotated sections 29-21-101 et seq. codify the applicable procedures

for seeking a writ. However, the grounds upon which our law provides relief are very narrow. Taylor v. State, 995 S.W.2d 78, 83 (Tenn. 1999). Habeas corpus relief is available in Tennessee only when it appears upon the face of the judgment or the record of the proceedings upon which the judgment is rendered that (1) the convicting court was without jurisdiction or authority to sentence a defendant; or (2) the defendant's sentence has expired. Archer v. State, 851 S.W.2d 157, 164 (Tenn. 1993). Thus, the grounds upon which habeas corpus relief will be granted are very narrow. State v. Ritchie, 20 S.W.3d 624, 630 (Tenn. 2000). It is permissible for a trial court to summarily dismiss a petition for habeas corpus relief, without the appointment of counsel and without an evidentiary hearing, if there is nothing on the face of the judgment to indicate that the convictions addressed therein are void. Passarella v. State, 891 S.W.2d 619 (Tenn. Crim. App. 1994).

The essence of the Petitioner's argument appears to be that the trial court misapplied and improperly considered mitigating and enhancement factors in setting the Defendant's sentence at ten years. The Petitioner therefore asserts that his sentence is excessive. The Petitioner also argues that his sentence violates his constitutional rights under Blakely v. Washington, 124 S.Ct. 2531 (2004) and Cunningham v. California, 127 S.Ct. 856 (2007).

The trial court dismissed the petition because it found that the Petitioner had entered into a plea agreement and agreed to his sentence and also found that the sentencing court accepted the plea agreement without enhancing his sentence. The trial court therefore determined that neither Blakely nor Cunningham was applicable to the Petitioner's sentence. The trial court also determined that the Petitioner had otherwise failed to demonstrate that he was being detained illegally or that his sentence has expired.

We agree with the reasoning of the trial court. The allegations set forth in the petition do not demonstrate that the Petitioner is entitled to habeas corpus relief. There is nothing on the face of the judgment that indicates the convicting court was without jurisdiction to sentence the Petitioner or that the sentence has expired. Furthermore, the sentence which the Defendant received was within the range authorized by law for the crime to which he pleaded guilty and of which he was convicted.

We conclude that the trial court did not err by summarily dismissing the Petitioner's habeas corpus petition. Accordingly, the State's motion is granted. The judgment of the trial court is affirmed in accordance with Rule 20, Rules of the Court of Criminal Appeals.

DAVID H. WELLES, JUDGE